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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Kevin Elliot Green,

10 Petitioner,

11 v.

12 David Shinn, et al.,

13 Respondents.
14

No. CV-22-01390-PHX-DJH

ORDER

15 This matter is before the Court on Kevin Elliot Green’s (“Petitioner”) *pro se*
16 Petition for Writ of Habeas Corpus (the “Petition”) pursuant to 28 U.S.C. § 2254
17 (Doc. 1), and the Report and Recommendation (“R&R”) (Doc. 15) issued by United
18 States Magistrate Judge Deborah M. Fine on May 25, 2023. The R&R recommends
19 dismissal of the Petition with prejudice, without an evidentiary hearing. (Doc. 15 at 73).
20 It also recommends that a Certificate of Appealability be denied. (*Id.*)

21 In her R&R, Judge Fine advised the parties that they had fourteen days to file
22 objections and that the failure to timely do so “may result in the acceptance of the Report
23 and Recommendation by the district court without further review.” (*Id.* at 73–74) (citing
24 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)). Petitioner has not
25 filed an objection and the time to do so has expired. Respondents have also not filed an
26 objection. Absent any objections, the Court is not required to review the findings and
27 recommendations in the R&R. See *Thomas v. Arn*, 474 U.S. 140, 149 (1989) (noting that
28 the relevant provision of the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), “does not on

1 its face require any review at all . . . of any issue that is not the subject of an objection.”);
 2 *Reyna-Tapia*, 328 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3) (“The district judge must
 3 determine de novo any part of the magistrate judge’s disposition that has been properly
 4 objected to.”).

5 Nonetheless, the Court has reviewed Judge Fine’s detailed and thorough R&R and
 6 agrees with its findings and recommendations. The Court will, therefore, accept the R&R
 7 and dismiss the Petition. *See* 28 U.S.C. § 636(b)(1) (“A judge of the court may accept,
 8 reject, or modify, in whole or in part, the findings or recommendations made by the
 9 magistrate judge.”); Fed.R.Civ.P. 72(b)(3) (same).

10 Accordingly,

11 **IT IS ORDERED** that the R&R (Doc. 14) is **accepted** and **adopted** as the Order
 12 of this Court.

13 **IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus
 14 pursuant to 28 U.S.C. § 2254 (Doc. 1) is **denied and dismissed with prejudice**.
 15 Petitioner’s request for an evidentiary hearing is **denied**.

16 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing
 17 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*
 18 on appeal are **denied** because dismissal of the Petition is justified by a plain procedural
 19 bar and jurists of reason would not find the procedural ruling debatable, because
 20 Petitioner has not “made a substantial showing of the denial of a constitutional right[,]”
 21 and because jurists of reason would not find the Court’s rejection on constitutional
 22 grounds of Petitioner’s Grounds One (a) and (b), Two (a), (c), and (e), Three (a) and (b),
 23 and Four (a) and (b) claims to be “debatable or wrong.” 28 U.S.C. § 2253(c)(2); *Slack v.*
 24 *McDaniel*, 529 U.S. 473, 484 (2000).

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1 **IT IS FINALLY ORDERED** that the Clerk of Court shall terminate this action
2 and enter judgment accordingly.

3 Dated this 15th day of June, 2023.

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6 
7 Honorable Diane J. Humetewa
8 United States District Judge
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